

(3) *Applicable commodities.* This paragraph (c) applies to the following commodities, subject to the provisions in paragraph (c)(1) and (c)(2) of this section:

NOTE TO PARAGRAPH (C)(3) OF THIS SECTION: Fuel and related commodities for shipment to vessels or planes of U.S. or Canadian registry as described in this License Exception must be shipped under the short supply License Exception SPR (see § 754.2(h) of the EAR);

- (i) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements;
- (ii) Medical and surgical supplies;
- (iii) Food stores;
- (iv) Slop chest articles;
- (v) Saloon stores or supplies; and
- (vi) Equipment and spare parts.

[61 FR 12678, Mar. 25, 1996. Redesignated and amended at 61 FR 64274, 64283, Dec. 4, 1996. Redesignated at 61 FR 68579, Dec. 30, 1996]

#### § 740.16 Additional permissive reexports (APR).

This License Exception allows the following reexports:

(a) *Reexports from Country Group A:1 and cooperating countries.* Reexports may be made from Country Group A:1 or from cooperating countries, provided that:

(1) The reexport is made in accordance with the conditions of an export authorization from the government of the reexporting country;

(2) The commodities being reexported are not controlled for NP, CB, MT, SI, or CC reasons; and

(3) The reexport is destined to *either*:

(i) A country in Country Group B *that is not also included in Country Group D:2, D:3, or D:4*; Cambodia; or Laos; and the commodity being reexported is both controlled for national security reasons and not controlled for export to Country Group A:1; or

(ii) A country in Country Group D:1 (National Security) (see Supplement No. 1 to part 740), other than Cambodia or Laos, and the commodity being reexported is controlled for national security reasons.

(b) *Reexports to and among Country Group A:1 and cooperating countries.* Reexports may be made to and among Country Group A:1 and cooperating countries, provided that eligible com-

modities are for use or consumption within a Country Group A:1 (see Supplement No. 1 to part 740) or cooperating country, or for reexport from such country in accordance with other provisions of the EAR. All commodities except the following are eligible for reexport to and among Country Group A:1 and cooperating countries:

(1) Computers with a CTP greater than 10,000 MTOPS to Hong Kong and South Korea;

(2) Commodities controlled for nuclear nonproliferation or missile technology reasons.

(c) Reexports to a destination to which direct shipment from the United States is authorized under an unused outstanding license may be made under the terms of that license. Such reexports shall be recorded in the same manner as exports are recorded, regardless of whether the license is partially or wholly used for reexport purposes. (See part 762 of the EAR for recordkeeping requirements.)

(d) Reexports of any item from Canada that, at the time of reexport, may be exported directly from the United States to the new country of destination under any License Exception.

(e) Reexports (return) to the United States of any item. If the reexporting party requests written authorization because the government of the country from which the reexport will take place requires formal U.S. Government approval, such authorization will generally be given.

(f) Reexports from a foreign destination to Canada of any item if the item could be exported to Canada without a license.

(g) Reexports between Switzerland and Liechtenstein.

(h) Shipments of foreign-made products that incorporate U.S.-origin components may be accompanied by U.S.-origin controlled spare parts, provided that they do not exceed 10 percent of the value of the foreign-made product, subject to the restrictions in § 734.4 of the EAR.

(i) Reexports to Sudan of items controlled by ECCNs 2A994; 3A992.a; 5A991.f; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f, and .g; 9A990.a and .b; and 9A991.d and .e. In addition, items

in these ECCNs are not counted as controlled U.S. content for purposes of determining license requirements for U.S. parts, components, and materials incorporated in foreign-made products. However, the export from the United States to any destination with knowledge that they will be reexported directly or indirectly, in whole or in part to Sudan is prohibited without a license.

(j) Reexports of items controlled by NP Column 1 (see Supplement No. 1 to part 774 of the EAR) to, among, and from countries described in Country Group A:4 (see Supplement No. 1 to part 740), except:

(1) Reexports from countries that are not identified in Country Group A:1 of items that are controlled for NS reasons to destinations in Country Group D:1; and

(2) Reexports to destinations in Country Group E:2 and Country Group D:2.

[61 FR 12768, Mar. 25, 1996. Redesignated at 61 FR 64274, Dec. 4, 1996. Redesignated at 61 FR 68579, Dec. 30, 1996, and amended at 62 FR 25458, May 9, 1997; 63 FR 42228, Aug. 7, 1998]

**§ 740.17 Encryption commodities and software (ENC).**

(a) *Exports and reexports of encryption commodities and software to all destinations except Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria.*

(1) *Financial-specific encryption commodities and software of any key length.*

(i) *Scope.* You may export and reexport financial-specific encryption commodities and software (which are not eligible under the provisions of License Exception TSU for mass market software such as SET or similar protocols) of any key length that are restricted by design (e.g., highly field-formatted with validation procedures, and not easily diverted to other end-uses) for financial applications to secure financial communications/transactions for end-uses such as financial transfers, or electronic commerce.

(ii) *Eligible commodities and software.* Encryption commodities and software of any key length classified under ECCNs 5A002 and 5D002 after a technical review (see paragraph (c) of this section). These commodities and software must be specifically designed and

limited for use in the processing of electronic financial (commerce) transactions, which implements cryptography in specifically delineated fields such as merchant's identification, the customer's identification and address, the merchandise purchased and the payment mechanism. It does not allow for encryption of data, text or other media except as directly related to these elements of the electronic transaction to support financial communications/transactions.

Notwithstanding the provisions of paragraph (c)(2) of this section, financial-specific commodities and software that were made eligible for License Exception KMI after a technical review prior to December 31, 1998, are now eligible for export and reexport under License Exception ENC under the provisions of this paragraph (a)(1).

(iii) *Eligible destinations.* Upon approval of your classification request, you may export and reexport under License Exception ENC financial-specific encryption commodities and software, as defined in this paragraph (a)(1), of any key length to all destinations except Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria.

(iv) *Reporting requirements.* There are no reporting requirements.

(2) *Encryption commodities and software of any key length for U.S. subsidiaries.* (i) *Scope.* You may export and reexport encryption commodities and software of any key length under License Exception ENC to U.S. subsidiaries (as defined in part 772 of the EAR) subject to the conditions of this paragraph (a)(2). Note that distributors, resellers or other entities that are not manufacturers of the encryption commodities and software are permitted to use License Exception ENC for U.S. subsidiaries only in instances where the export or reexport meets the terms and conditions of this paragraph (a)(2).

(ii) *Eligible commodities and software.* Encryption commodities, software and technology of any key length classified under ECCNs 5A002, 5D002 and 5E002 after a technical review (see paragraph (c) of this section). This includes encryption chips, integrated circuits, toolkits, executable or linkable modules, source code and technology to U.S. subsidiaries for internal company